IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/08/2003

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

CRL.O.P.No.26602 of 2002

R.Malar Kodi .. Petitioner

-Vs-

1. State rep. by S.H.O.,
Thiruvennainallur Police
Station, Thiruvennainallur
Villupuram - (D.T.)
Cr.No.573/1997
2. Additional Superintendent of
Police, Police Head Quarters
Villupuram & (D.T.) .. Respondents

This criminal original petition is filed under Sec.482 of The Code of Criminal Procedure to call for records and set aside the order of confiscation of the vehicle bearing registration No.TSC-655 in C.No.K1 /40905/97 passed by the 2nd respondent dated 5.1.1998 and direct the 2nd respondent to release and hand over the vehicle to the petitioner.

!For Petitioner : Mr.P.Jayaraman

^For Respondents : Mr.V.Jaya Prakash Narayanan
Government Advocate (Crl.Side)

:ORDER

This petition has been brought forth seeking to set aside an order of confiscation of the vehicle bearing Registration No.TSC-655 passed by the second respondent dated 5.1.1998 and further to direct the 2 nd respondent to release the said vehicle to the petitioner.
2. Without going into the merits or otherwise of the rival submissions, what are all required to be stated is that the present petition is not maintainable.
3. An offence under the Tamil Nadu Prohibition Act was alleged to have been committed on 16.9.1997 at 9.15 A.M. The first information was lodged on the very day by 11.30 A.M. against one Rajan and Ramesh. At that time, the present petitioner calling herself to be the owner of the vehicle was not added as an accused. Hence, a notice was served under Sec.14(4)(i) of the T.N.P. Act. The same was challenged by the petitioner in W.P.No.17238 of 1997, wherein a direction was given to the Additional Superintendent of

Police, Villupuram to give an opportunity to the petitioner. Accordingly, the petitioner filed an explanation on 9.12.1997. An order was passed on 5.10.98 under Sec.14 (3) of the T.N.P. Act ordering confiscation of the said vehicle.
4. It is not in dispute that the petitioner was not added as an accused originally when the first information was lodged. But, she was subsequently added as a party. However, an option was given to her to pay the market value of the car namely Rs.1,21,500/- as valued by the Automobile Engineer, Government Automobile Workshop, Cuddalore as per the proviso to Sec.14(4) of the Act. From the averments, it could be seen that the petitioner aggrieved over the order of confiscation preferred an appeal before the Court of Sessions in C.A.No.5 of 1998 to set aside the order of confiscation and to release the vehicle. The said appeal was dismissed on 31.7.98. It remains to be stated that the petitioner filed Crl.R.C.No.1934 of 1998 before the first appellate Court against the judgment in C.A.No.5/98. The said revision was also dismissed on 8.12.1999. Having failed so, the petitioner has now come forward with the instant petition to set aside the same order of confiscation. The Court is of the considered view that the petition itself is not maintainable in view of the circumstances stated above.
5. In the result, this criminal original petition is dismissed. However, the petitioner is given liberty to move the appropriate authority for return of the vehicle on payment of the value of the Car as found in the order of confiscation. The said request of the petitioner can be considered by the concerned authority in accordance with law.

Index: Yes
Internet: Yes

To:

1. The Station House Officer,
Thiruvennainallur Police
Station, Thiruvennainallur
Villupuram - (D.T.)
Cr.No.573/1997
2. The Additional Superintendent of
Police, Police Head Quarters
Villupuram & (D.T.)
3. The Judicial Magistrate No.II,
Ulundurpet.
4. The Principal Sessions Judge,
Villupuram.
5. The Public Prosecutor,
High Court, Madras.

nsv/